

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2942 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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SPUN PIPES & CONSTRUCTION COMPANY OF INDIA

Versus

STATE OF GUJARAT  
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Appearance:

MR PRANAV G DESAI for Petitioners  
MR JM THAKORE, A.G. with MR SUDHANSHU PATEL  
instructed by MR MI HAVA for Respondents  
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CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 03/03/2000

ORAL JUDGEMENT

By means of filing this petition under Article  
226 of the Constitution, the petitioners have prayed to  
issue a writ of mandamus or any other appropriate writ or

order to quash and set aside order dated May 24, 1988 passed by the Competent Authority and Additional Collector, Surat restraining the petitioners from making construction on land admeasuring 9661.50 sq.mts. of Survey No.115, City Census No.113 of village Majura pending finalisation of form submitted by the petitioners under section 6(1) of the Urban Land (Ceiling and Regulation) Act, 1976.

2. An affidavit dated 2.3.2000 has been filed by Mr. M.B.Patel, Competent Authority and Additional Collector, U.L.C. Surat, wherein it is stated that possession of the land in question is with the petitioner in view of exemption granted under section 20(1) of the said Act.

3. It may be mentioned that the Parliament has enacted The Urban Land (Ceiling and Regulation) Repeal Act, 1999 by which the Urban Land (Ceiling and Regulation) Act, 1976 is repealed. Section 4 of the repealing Act provides that all proceedings relating to any order made or purported to be made under the principal Act pending immediately before the commencement of the Act, before any Court, Tribunal or other authority shall abate. The proviso to the said section specifies that section 4 shall not apply to the proceedings relating to sections 11, 12, 13 and 14 of the principal Act in so far as such proceedings are relatable to the land, possession of which has been taken over by the State Government or any person duly authorised by the State Government in this behalf or by the competent authority. The record does not indicate that possession of land has been taken over by the State Government or any competent authority. On the contrary, affidavit filed by the Competent Authority and Additional Collector, ULC, Surat makes it manifest that possession of the land in question is with the petitioner because of exemption granted under section 20(1) of the repealed Act. Under the circumstances, it will have to be held that the petition has abated. As the petition has abated, the same deserves to be disposed of accordingly.

For the foregoing reasons, it is held that the petition has abated. It is made clear that the Court has not pronounced upon legality or otherwise of the order which is subject matter of challenge in the present petition and it will be open to the petitioners to point out to the Competent Authority that the proceedings have abated in view of the provisions of the Urban Land (Ceiling and Regulation) Repeal Act, 1999. Rule is discharged, with no order as to costs. The petition is dismissed as having abated. Liberty is reserved to the

petitioners to move the Court in case of difficulty.

3.3.2000 (J.M.Panchal,J.)

(patel)